

AMENDMENTS TO THE DRAWINGS

The attached sheet(s) of drawings includes new Figure 7.

Attachment: New Sheet

REMARKS

I. PRELIMINARY REMARKS

The Abstract is amended to eliminate the phrase the “invention provides.”

The Specification is amended to include a description of newly added Figure 7 to the Brief Description of the Drawings section.

A drawing sheet containing new Figure 7 is submitted herewith. Figure 7 is a sectional view of a container with a closure according to the invention with a snap on means for holding the cap on the container. Support for new Figure 7 can be found in the specification, for example, on page 3, lines 7-10.

Claims 1-22 are amended in accordance with the Examiner’s recommendation to include the proper indefinite or definite article at the beginning of the claim.

Claim 1 is further amended to recite a tamper evident closure for containers that includes a centering-aid that comprises “a first guiding surface on the spout and a second guiding surface on an inner surface of the cap and inwardly extending into the cap such that the wrench or socket is an inward continuation of the second guiding surface.” Support for this amendment can be found in the specification, for example, on page 5, lines 9-13. No new matter is added.

II. OUTSTANDING REJECTIONS

The drawings are objected to under 37 C.F.R. § 1.83(a) for failing to show the snap on means.

The drawings are objected to under 37 C.F.R. § 1.83(a) for failing to show the snap on means comprising rims and noses as described in the specification.

The abstract of the disclosure is objected to because it contains the phrase "invention provides".

The claims are objected to as being informal for failure to recite “a” or “the” at the beginning of each claim.

Claim 11 is objected to for failing to recite “a” before cannula.

Claims 17-20 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement on the basis that the disclosure does not provide a description for a “multi-fold symmetry” or the snap on means comprising “rims” and “noses.”

Claims 17-20 also stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement on the basis that the disclosure does not provide an enabling disclosure of a “multi-fold symmetry” or the snap on means comprising “rims” and “noses.”

Claims 11 and 17-20 also stand rejected under 35 U.S.C. § 112, second paragraph, as failing to comply with the enablement requirement on the basis that the recitations of “multi-fold symmetry” and the snap on means comprising “rims” and “noses” are indefinite.

Claims 1-6, 8, 9, 11-14 and 16-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bayer, U.S. Patent No. 4,688,703.

Claims 7 and 15 stand rejected under 35 U.S.C. § 103(a) as being obvious over Bayer.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Bayer with Butterbrodt, U.S. Patent No. 5,255,804.

III. PATENTABILITY ARGUMENTS

A. The Formality Objections to Claims 1-22 Should be Withdrawn in Light of the Amendment of the Claims.

The objections to claims 1-22 should be withdrawn in light of the amendment to the claims. The claims have been amended to include the appropriate indefinite or definite article at the beginning of each claim so that each claim is written as a single complete sentence.

Further, the objection to claim 11 should be withdrawn in light of the amendment to claim 11, which now recites an “a” before “cannula.”

B. The Rejections of Claims 17-20 Under 35 U.S.C. § 112, First Paragraph, as Failing to Comply with the Written Description Requirement Should Be Withdrawn in Light of the Amendment of the Claims.

The rejections of claims 17-20 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement should be withdrawn in light of the amendments of the claims.

Claim 17 has been amended to recite “wherein the twist away element has a multi-fold symmetry.” In view of this amendment; the disclosure in the specification on page 4, lines 4-12, which specifically identifies “eight-fold symmetry;” dependent claim 18 reciting “three-fold, four-fold, five-fold, six-fold, seven-fold, or eight-fold symmetry;” and the knowledge of one of ordinary skill in the art, the specification provides adequate description of the claimed subject matter of Claims 17 and 18 to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention.

Claim 19 has been amended to recite that the “snap on means comprise rims disposed on one or more of the cap and the spout.” Claim 20 has been similarly amended to recite that the “snap on means comprise noses disposed on one or more of the cap and the spout.” In view of this amendment, and the disclosure in the specification on page 3, lines 15-16, “snap on elements” are well known to persons skilled in the art, the specification provides adequate description of the claimed subject matter of Claims 19 and 20 to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention.

C. The Rejections of Claims 17-20 Under 35 U.S.C. § 112, First Paragraph, as Failing to Comply with the Enablement Requirement Should Be Withdrawn in Light of the Amendments of the Claims.

Claim 17 has been amended to recite “wherein the twist away element has a multi-fold symmetry.” As stated above, in view of the disclosure in the specification on page 4, lines 4-12, and the knowledge of one of ordinary skill in the art, one of ordinary skill in the art would be enabled to make a twist away element 3 having multi-fold symmetry, such as from two to eight-fold symmetry as recited in claim 18.

Claims 19 and 20 have been amended to more clearly recite that the rims and the noses can be disposed on one or more of the spout and the cap. As stated in the specification

on page 3, lines 15-16, “snap on elements” are well known to persons skilled in the art. Accordingly, in view of the knowledge of one skilled in the art, the specification sufficiently enables a snap on means comprising rims (claim 19) or noses (claim 20).

D. The Rejections of Claims 11, 17-20 Under 35 U.S.C. § 112, Second Paragraph, as Indefinite Should Be Withdrawn in Light of the Amendments of the Claims.

Claim 11 is amended to recite “wherein the spout is designed as a cannula. There is nothing in the specification that indicates that the term cannula should be interpreted contrary to its accepted meaning as a needleless syringe. Rather, the specification on page 6, lines 36-37, states that “the spout 10 is designed especially long, as a cannula, in order *to allow a locally more precise dispensing.*” This statement in the specification is consistent with the accepting meaning of cannula as a needleless syringe. Accordingly, the term “cannula” is definite in claim 11.

Claim 17 has been amended to recite “wherein the twist away element has a multi-fold symmetry.” For the reasons stated above and in view of the specification and the knowledge of one of ordinary skill in the art, the term multi-fold symmetry has definite meaning to one of ordinary skill in the art.

Claims 19 and 20 have been amended to more clearly recite that the rims and the noses can be disposed on one or more of the spout and the cap. As stated in the specification on page 3, lines 15-16, “snap on elements” are well known to persons skilled in the art. Accordingly, the rims and noses of the claimed snap on means are definite in view of the knowledge of one of skill in the art.

E. The Rejections of Claims 1-6, 8, 9, 11-14 and 16-22 Under 35 U.S.C. § 102(b) over Bayer Should Be Withdrawn in Light of the Amendment of Claim 1.

The rejections of claims 1-6, 8, 9, 11-14, and 16-22 under 35 U.S.C. § 102(b) over Bayer should be withdrawn in light of the amendment to claim 1 and because Bayer fails to disclose a second guiding surface on an inner surface of the cap and inwardly extending into the cap such that the wrench or socket is an inward continuation of the second guiding surface as recited in amended claim 1.

By comparison, Bayer discloses a cap 7 that includes an annular gap 11 between the socket 9 and the outer wall of the cap. Bayer, col. 2, lines 45-46. As clearly shown in Figure 1, the socket 9 of Bayer is not an inward continuation of the annular gap 11. Therefore, Bayer cannot anticipate independent claim 1 or any claims depending therefrom.

F. The Rejection of Claims 7 and 15 Under 35 U.S.C. § 103(a) in view of Bayer Alone Should be Withdrawn in Light of the Amendment of Claim 1.

As shown above, Bayer does not disclose each and every limitation of the claimed invention. Moreover, Bayer fails to disclose or suggest any limitation of using the annular gap 11 and the socket 9 as guiding surfaces, and, therefore, one of ordinary skill in the art would not be motivated to modify Bayer to provide for the second guiding surface as recited in the claimed invention. Thus, Bayer fails to disclose or suggest each and every limitation of the claimed invention. Accordingly, a *prima facie* case of obviousness cannot be based on Bayer.

G. The Rejections of Claim 10 Under 35 U.S.C. § 103(a) in view of Bayer (4,688,703) and Butterbrodt (5,255,804) Should Be Withdrawn in Light of the Amendment of Claim 1.

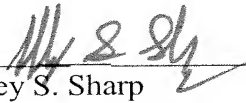
As shown above, Bayer does not disclose each and every limitation of the claimed invention. Specifically, Bayer fails to disclose a second guiding surface on an inner surface of the cap and inwardly extending into the cap such that the wrench or socket is an inward continuation of the second guiding surface. Moreover, Bayer fails to disclose or suggest any limitation of using the annular gap 11 and the flange 6 as guide surfaces when removing the neck extension 3. Therefore, one of ordinary skill in the art would not be motivated to modify Bayer to provide for the second guiding surface as disclosed in the claimed invention, and, thus, it would be improper to combine Bayer with any reference disclosing a second guiding surface as recited in the claimed invention. Accordingly, a *prima facie* case of obviousness cannot be based in whole or in part on Bayer.

CONCLUSION

For the foregoing reasons, it is submitted that each of claims 1-22 should now be allowed. Should the Examiner wish to discuss any issues of form or substance, she is invited to contact the undersigned attorney at the number below.

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Respectfully submitted,

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Attachments